



John T. Auberger
Supervisor

TOWN OF GREECE

BOARD OF ZONING APPEALS

MINUTES

SEPTEMBER 7, 2010

General Information:

Work Session: 6:30 p.m.

Meeting: 7:00 p.m.

Roll Call:

Albert F. Meilutis, Chairman

Michelle Betters

Diana Christodaro

Randy T. Jensen

William F. Murphy

Christopher A. Schiano, Deputy Town Attorney

Ivana Frankenberger, Planning Assistant

Linda Lamb, Secretary to the Planning Board

Absent:

Mary Jo Santoli, Secretary to the Zoning Board

John J. Riley

Pledge of Allegiance

Additions/Deletions to the Agenda

Announcements:

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OLD BUSINESS:

- 1. Applicant:** Adrienne Stewart
Location: 57 Stonecliff Drive
Mon. Co. Tax No.: 060.59-2-39
Zoning District: R1-E (Single-Family Residential)
Request: An area variance to allow five (5) dogs to be kept at a residence, where not more than three (3) dogs shall be permitted per dwelling unit. Sec. 211-30 A

Ms. Betters offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 57 Stonecliff Drive, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes an Unlisted action under SEQRA.
2. The Board of Zoning Appeals has considered the Proposal at a public meeting (the "Meeting") in the Greece Town Hall, 1 Vince Tofany Boulevard, at which time all persons and organizations in interest were heard.
3. Documentary, testimonial, and other evidence were presented at the Meeting relative to the Proposal for the Board of Zoning Appeals' consideration.
4. The Board of Zoning Appeals carefully has considered an Environmental Assessment Form and supplementary information prepared by the Applicant and the Applicant's representatives, including but not limited to supplemental maps, drawings, descriptions, analyses, reports, and reviews (collectively, the "Environmental Analysis").
5. The Board of Zoning Appeals carefully has considered additional information and comments that resulted from telephone conversations, meetings, or written correspondence from or with the Applicant and the Applicant's representatives.
6. The Board of Zoning Appeals carefully has considered information, recommendations, and comments that resulted from telephone conversations, meetings, or written correspondence from or with various involved and interested agencies, including but not limited to the Monroe County Department of Planning and Development, the Town of Greece Environmental Board, and the Town's own staff.
7. The Board of Zoning Appeals carefully has considered information, recommendations, and comments that resulted from telephone conversations, meetings, or written correspondence from or with nearby property owners, and all other comments submitted to the Board of Zoning Appeals as of this date.
8. The Environmental Analysis examined the relevant issues associated with the Proposal.

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9. The Board of Zoning Appeals has met the procedural and substantive requirements of SEQRA.
10. The Board of Zoning Appeals carefully has considered each and every criterion for determining the potential significance of the Proposal upon the environment, as set forth in SEQRA.
11. The Board of Zoning Appeals carefully has considered (that is, has taken the required "hard look" at) the Proposal and the relevant environmental impacts, facts, and conclusions disclosed in the Environmental Analysis.
12. The Board of Zoning Appeals concurs with the information and conclusions contained in the Environmental Analysis.
13. The Board of Zoning Appeals has made a careful, independent review of the Proposal and the Board of Zoning Appeals' determination is rational and supported by substantial evidence, as set forth herein.
14. To the maximum extent practicable, potential adverse environmental effects revealed in the environmental review process will be minimized or avoided by the incorporation of mitigation measures that were identified as practicable.

NOW, THEREFORE, be it

RESOLVED that, pursuant to SEQRA, based on the aforementioned information, documentation, testimony, and findings, and after examining the relevant issues, the Board of Zoning Appeals' own initial concerns, and all relevant issues raised and recommendations offered by involved and interested agencies and the Town's own staff, the Board of Zoning Appeals determines that the Proposal will not have a significant adverse impact on the environment, which constitutes a negative declaration.

Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:

Ms. Betters
Mr. Jensen
Mr. Murphy

Yes
Yes
Yes

Ms. Christodaro
Mr. Meilutis
Mr. Riley

Yes
Yes
Absent

Motion Carried

Ms. Betters then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of Adrienne Stewart, 57 Stonecliff Drive, Ms. Stewart appeared before the Board of Zoning Appeals this evening and also on the evening of August 17th requesting an area variance to allow five (5) dogs to be kept at a residence, where not more than three (3) dogs shall be permitted per dwelling unit.

WHEREAS, the applicant testified that she has five dogs: KC, a Pomeranian, approximately 10 years old; Casper, a Pomeranian, approximately 9 years old; Guardian, a Chihuahua, approximately 5 years old; Ginger, a Chihuahua, an older dog, not really sure of the age; and Grace, a Pomeranian that was purchased June 2010. KC has been the applicant's dog for approximately 10 years; Casper, Gaurdian, and Ginger were rescue dogs which the applicant has cared for and loved. Grace was purchased about June 2010, as the applicant was not aware of the limit of three dogs within the Town of Greece. All the above

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referenced dogs are small and are mainly inside dogs. When the dogs do go outside, they are on leads and are cleaned up after by the applicant. She stated that she double-bags the waste and is marked by a special orange bag. The applicant stated that she is very clean and the dogs are kept up after. She loves the dogs very much and they are well cared for. There have been no calls or reports from Animal Control and no neighbors were here tonight to show their opposition.

WHEREAS, after considering the five points when determining an area variance, it is my opinion that there is not an undesirable change in the neighborhood in granting this variance, nor will it be a detriment to nearby properties, should this variance be granted. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue and the requested area variance, in my opinion, is not substantial. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. And the alleged difficulty was self-created, which consideration is relevant to the decision of the Board, but shall not necessarily preclude the granting of this variance.

WHEREAS, having reviewed all the testimony and evidence as just summarized in the findings of fact; and

Having considered the statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this section; and

Having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community, and that the benefit to the applicant is substantial; and

Having found that this is a Type II action pursuant to SEQRA, requiring no further action by this Board,

THEREFORE, I move to approve this application with the following conditions:

1. That the approval is for the life of the five dogs mentioned in the findings and shall not extend to any other dogs. Because there are five dogs and it is a little out of the ordinary, the applicant shall agree to send a letter every year certifying that these are the five dogs that were approved and that there are only five dogs that they have. This will continue every year, which is due on September 7th until there are only three dogs that live at the residence. Proof of current licenses for the dogs must be included.
2. Also, a Hold Harmless Agreement to be signed with the Town in the event that one of the dogs does happen to get free and cause harm or injury to a passerby, that they do not hold the Town responsible.

Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:

Ms. Betters
Mr. Jensen
Mr. Murphy

Yes
Yes
Yes

Ms. Christodaro
Mr. Meilutis
Mr. Riley

Yes
Yes
Absent

Motion Carried
Application Approved
With Conditions

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2. **Applicant:** David Carter
 Location: 3029 Ridgeway Avenue
 Mon. Co. Tax No.: 088.03-1-9
 Zoning District: R1-18 (Single-Family Residential)
 Request: An area variance for a proposed attached garage (approximately 1016 sq. ft.), resulting in a total gross floor area of 1608 sq. ft. for all existing and proposed accessory structures and attached garages, where 1250 sq. ft. is the maximum gross floor area permitted for lots over one acre in area. Sec. 211-11 E (1), Table I

Mr. Murphy offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 3029 Ridgeway Avenue, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (See § 617.5(c)(10) of the SEQRA Regulations).
2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, no further action relative to this proposal is required by SEQRA.

Seconded by Ms. Betters and duly put to a vote, which resulted as follows:

Ms. Betters	Yes	Ms. Christodaro	Yes
Mr. Jensen	Yes	Mr. Meilutis	Yes
Mr. Murphy	Yes	Mr. Riley	Absent

Motion Carried

Mr. Murphy then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of David Carter, 3029 Ridgeway Avenue, Mr. Carter appeared before the Board of Zoning Appeals this evening requesting an area variance for a proposed attached garage (approximately 1016 sq. ft.), resulting in a total

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gross floor area of 1608 sq. ft. for all existing and proposed accessory structures and attached garages, where 1250 sq. ft. is the maximum gross floor area permitted for lots over one acre in area.

WHEREAS, the findings of fact are as follows:

This parcel is located at 3029 Ridgeway Avenue. It is approximately 190 ft. wide and 193 ft. deep. It is bounded on the north by Ridgeway Avenue, on the east and south by industrial, and to the west is public land that houses a cell tower. There are virtually no other homes adjacent to the applicant.

The applicant first appeared before this Board on August 17, 2010. At such time, it was discovered that there was an error with the legal and the application continued so staff could have time to re-advertise this application.

The applicant would like to construct an attached garage, totaling approximately 1016 sq. ft. He has a growing family and needs the area for storage. Currently, there is no garage, only an old 11 x 17 "block garage," which is more like a shed than a garage, as you could not even park a car in it. This block garage would be demolished and a new attached garage would be built in its place. This structure would be finished to match the existing house, and would comply with the setbacks for this zoning district. The applicant would utilize this structure to accommodate his vehicles and for additional house storage. The main home has no attic and over 40% of the basement is just crawl space. The structure is not proposed to be heated.

It should be noted that there were no persons either for or against this application.

In considering the five points necessary to determine these variances, I offer the following:

1. An undesirable change will not be produced in the character of the neighborhood or be a detriment to nearby properties by granting these area variances. The total square footage as originally requested would not be out of character with the neighborhood in terms of excessive square footage. This lot on Ridgeway Avenue is somewhat secluded from adjoiners and will not impact any neighbors.
2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue other than with an area variance. The application requires a variance for the overall square footage.
3. The requested variance is not substantial in the context of this application.
4. The proposed variance will not have an adverse effect or impact on the physical and environmental conditions in the neighborhood or district. Again, there are no neighbors, so there will be no detrimental effects to the area. No detriments to traffic or utilities to the area, either.
5. The alleged difficulty was self-created, which consideration is relevant to the decision of the Board but shall not necessarily preclude the granting of this variance.

Therefore, I move to approve this application as requested.

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Seconded by Ms. Betters and duly put to a vote, which resulted as follows:

**Ms. Betters
Mr. Jensen
Mr. Murphy**

**Yes
Yes
Yes**

**Ms. Christodaro
Mr. Meilutis
Mr. Riley**

**Yes
Yes
Absent**

**Motion Carried
Application Approved**

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- 3. Applicant:** Auction Direct USA
Location: 4350 West Ridge Road
Mon. Co. Tax No.: 073.01-1-7
Zoning District: BG (General Business)
Request: A special use permit to operate a business for the sale, lease or rental of new and used cars and trucks, including related repair or service facilities; and for outdoor storage or display of motor vehicles. Sec. 211-17 C (3) (b) [3] & Sec. 211-17 C (3) (b) [4]

On a motion by Ms. Christodaro and seconded by Mr. Jensen, it was resolved to continue the public hearing on this application until the meeting of September 21, 2010, as requested by the applicant.

**Ms. Betters
Mr. Jensen
Mr. Murphy**

**Yes
Yes
Yes**

**Ms. Christodaro
Mr. Meilutis
Mr. Riley**

**Yes
Yes
Absent**

**Motion Carried
Application Continued
Until Meeting of
September 21, 2010**

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NEW BUSINESS:

- 1. Applicant:** Clifton Land Company LLC (d.b.a. Classy Chassy Laserwash)
Location: 3022 West Ridge Road
Mon. Co. Tax No.: 074.13-1-1.1
Zoning District: BR (Restricted Business)
Request: An appeal for relief from the Fire Sprinkler Law adopted by the Greece Town Board by Local Law #4 of the year 2000. Sec. 115-4 A

Ms. Christodaro offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 3022 West Ridge Road, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes an Unlisted action under SEQRA.
2. The Board of Zoning Appeals has considered the Proposal at a public meeting (the "Meeting") in the Greece Town Hall, 1 Vince Tofany Boulevard, at which time all persons and organizations in interest were heard.
3. Documentary, testimonial, and other evidence were presented at the Meeting relative to the Proposal for the Board of Zoning Appeals' consideration.
4. The Board of Zoning Appeals carefully has considered an Environmental Assessment Form and supplementary information prepared by the Applicant and the Applicant's representatives, including but not limited to supplemental maps, drawings, descriptions, analyses, reports, and reviews (collectively, the "Environmental Analysis").
5. The Board of Zoning Appeals carefully has considered additional information and comments that resulted from telephone conversations, meetings, or written correspondence from or with the Applicant and the Applicant's representatives.
6. The Board of Zoning Appeals carefully has considered information, recommendations, and comments that resulted from telephone conversations, meetings, or written correspondence from or with various involved and interested agencies, including but not limited to the Monroe County Department of Planning and Development, the Town of Greece Environmental Board, and the Town's own staff.
7. The Board of Zoning Appeals carefully has considered information, recommendations, and comments that resulted from telephone conversations, meetings, or written correspondence from or with nearby property owners, and all other comments submitted to the Board of Zoning Appeals as of this date.
8. The Environmental Analysis examined the relevant issues associated with the Proposal.

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9. The Board of Zoning Appeals has met the procedural and substantive requirements of SEQRA.
10. The Board of Zoning Appeals carefully has considered each and every criterion for determining the potential significance of the Proposal upon the environment, as set forth in SEQRA.
11. The Board of Zoning Appeals carefully has considered (that is, has taken the required "hard look" at) the Proposal and the relevant environmental impacts, facts, and conclusions disclosed in the Environmental Analysis.
12. The Board of Zoning Appeals concurs with the information and conclusions contained in the Environmental Analysis.
13. The Board of Zoning Appeals has made a careful, independent review of the Proposal and the Board of Zoning Appeals' determination is rational and supported by substantial evidence, as set forth herein.
14. To the maximum extent practicable, potential adverse environmental effects revealed in the environmental review process will be minimized or avoided by the incorporation of mitigation measures that were identified as practicable.

NOW, THEREFORE, be it

RESOLVED that, pursuant to SEQRA, based on the aforementioned information, documentation, testimony, and findings, and after examining the relevant issues, the Board of Zoning Appeals' own initial concerns, and all relevant issues raised and recommendations offered by involved and interested agencies and the Town's own staff, the Board of Zoning Appeals determines that the Proposal will not have a significant adverse impact on the environment, which constitutes a negative declaration.

Seconded by Mr. Murphy and duly put to a vote, which resulted as follows:

Ms. Betters
Mr. Jensen
Mr. Murphy

Yes
Yes
Yes

Ms. Christodaro
Mr. Meilutis
Mr. Riley

Yes
Yes
Absent

Motion Carried

Ms. Christodaro then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of Clifton Land Company LLC (d.b.a. Classy Chassy Laserwash), 3022 West Ridge Road, Dave Clements appeared before the Board of Zoning Appeals requesting an appeal for relief from the Fire Sprinkler Law adopted by the Greece Town Board as Local Law #4 of the year 2000.

WHEREAS, the applicant testified that a couple of months ago, they were granted a Special Permit by this Board to renovate an oil change facility on West Ridge Road into a carwash facility. This facility will have a couple employees, two or three that will be visiting the site and maintaining the site, but they are not there at all hours that the site is open. The building is made of a non-combustible material; it was built in 1992. The applicant has also testified that the renovations will be made with a similar material, The applicant is requesting relief from the sprinkler law because:

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1. It is a carwash facility.
2. Because of the building materials that are associated with the building.
3. And because of the cost associated.

WHEREAS, the applicant has supplied four estimates to the Board, ranging from \$18,250.00 to \$21,000.00; that would represent about 50% of the construction cost to renovate the facility for their use. As entered into evidence, Rob Drexler, the Fire Marshal, has reviewed the application and has said that granting relief to this request could be warranted, and he had several recommendations and conditions that he discussed with the applicant and the applicant has agreed to.

WHEREAS, I am going to move to approve this application and I would like to read these in as conditions based on the Fire Marshal's recommendation:

1. That the applicant will install a fire and smoke detection system in the lower basement, un-occupied office areas, upper small storage room, and equipment areas.
2. That the system will be connected to a central monitoring station.
3. In addition, the petitioner agreed to provide a metal-type ceiling within the bay areas, and to maintain a broom clean operation in the lower level and un-occupied space.
4. That the storage of materials will only be provided within the equipment room.

Seconded by Mr. Murphy and duly put to a vote, which resulted as follows:

**Ms. Betters
Mr. Jensen
Mr. Murphy**

**Yes
Yes
Yes**

**Ms. Christodaro
Mr. Meilutis
Mr. Riley**

**Yes
Yes
Absent**

**Motion Carried
Application Approved
With Conditions**

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- 2. Applicant:** Frank W. Lopez
Location: 125 Foreman Drive
Mon. Co. Tax No.: 075.14-3-50
Zoning District: R1-E (Single-Family Residential)
Request: An area variance for an existing deck (approximately 131 sq. ft.) to be located in a front yard, where accessory structures, including decks, are permitted in rear yards only. Sec. 211-11 E (3)

Ms. Betters offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 125 Foreman Drive, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (See § 617.5(c)(10) of the SEQRA Regulations).
2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, no further action relative to this proposal is required by SEQRA.

Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:

Ms. Betters	Yes	Ms. Christodaro	Yes
Mr. Jensen	Yes	Mr. Meilutis	Yes
Mr. Murphy	Yes	Mr. Riley	Absent

Motion Carried

Ms. Betters then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of Frank Lopez, 125 Foreman Drive, Michele Lopez appeared before the Board of Zoning Appeals this evening requesting an area variance for an existing deck (approximately 131 sq. ft.) to be located in a front yard, where accessory structures, including decks, are permitted in rear yards only.

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WHEREAS, the applicant testified that she has lived at the residence for five years and the applicant also testified that the request is due to there was an existing porch that was unsafe and that is why they decided to build the deck. It is similar to the old footprint that was there. The deck is made of pressure-treated wood and it has two steps leading up; it is their front entrance to their home. The applicant stated that there are no plans for it to be covered or enclosed and that it would be a financial hardship for them to tear it down or replace it.

WHEREAS, after considering the criteria when determining an area variance, it is my opinion that there will not be an undesirable change in the neighborhood in granting this variance, nor will it be a detriment to nearby properties, should this variance be granted. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue, and the requested area variance, in my opinion, is not substantial. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. And, the alleged difficulty was self-created, which consideration is relevant to the decision of the Board but shall not necessarily preclude the granting of this variance.

WHEREAS, having reviewed all the testimony and evidence as just summarized in the findings of fact; and

Having considered the statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this section; and

Having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community, and that the benefit to the applicant is substantial; and

Having found that this is a Type II action pursuant to SEQRA, requiring no further action by this Board,

THEREFORE, I move to approve this application with the following conditions:

1. That this approval for the life of the deck.
2. Also, that they obtain a building permit from the Building Department.

Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:

Ms. Betters
Mr. Jensen
Mr. Murphy

Yes
Yes
Yes

Ms. Christodaro
Mr. Meilutis
Mr. Riley

Yes
Yes
Absent

Motion Carried
Application Approved
With Conditions

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- 3. Applicant:** Kevin Peters
Location: 15 North Drive
Mon. Co. Tax No.: 026.15-2-12
Zoning District: R1-E (Single-Family Residential)
Request: a) An area variance for a proposed deck (approximately 684.0 sq. ft.) to be located in a waterfront yard, where accessory structures, including decks, are permitted in rear yards only. Sec. 211-11 E (3)
b) An area variance for a proposed hot tub (8.0 ft. x 8.0 ft.; 64.0 sq. ft.) to be located in a waterfront yard, where accessory structures, including hot tubs, are permitted in rear yards only. Sec. 211-11 E (3)

Ms. Betters offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 15 North Drive, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (See § 617.5(c)(10) of the SEQRA Regulations).
2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, no further action relative to this proposal is required by SEQRA.

Seconded by Ms. Christodaro and duly put to a vote, which resulted as follows:

Ms. Betters	Yes	Ms. Christodaro	Yes
Mr. Jensen	Yes	Mr. Meilutis	Yes
Mr. Murphy	Yes	Mr. Riley	Absent

Motion Carried

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Ms. Betters then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of Kevin Peters, 15 North Drive, Mr. Peters appeared before the Board of Zoning Appeals this evening requesting an area variance for a proposed deck (approximately 684.0 sq. ft.) to be located in a waterfront yard, where accessory structures, including decks, are permitted in rear yards only and an area variance for a proposed hot tub (8.0 ft. x 8.0 ft.; 64.0 sq. ft.) to be located in a waterfront yard, where accessory structures, including hot tubs, are permitted in rear yards only.

WHEREAS, the findings and facts are as follows. This parcel is approximately 47 ft. wide by 240 ft. deep and is located at 15 North Drive and is a waterfront lot, fronting Cranberry Pond as per an instrument survey map provided by the applicant, performed by Schultz Associated and dated July 27, 2010. The applicant, Kevin Peters, has been in the residence for approximately 30 years. Previously, they have converted an attached garage to additional living space and have added a detached garage to the parcel. It has come to the Board's attention that Mr. Peters also, in the past years, has hired a contractor to pave and widen his driveway and the contractor did so without a permit and preformed the majority of the work within the Town's right-of-way area. To date and according to Robert Johnson, the Deputy Commissioner of the Town's Department of Public Works, a permit has not yet been obtained and the homeowner would need to do so prior to any other permits being sought by this property. At this time, however, the applicant is proposing to install a 680 sq. ft. deck and hot tub that will be located on the proposed deck. Decks along waterfront parcels are very common and within the character of this neighborhood. The adjoining on either side have their homes slightly further ahead of this residence, so the need for a waterfront setback for the deck is not required. The northern side of this yard is completely landscaped with evergreens, making it impossible for the adjoiner to the north to see any portions of the proposed deck in its location. The applicant stated that the deck would be made from pressure-treated wood approximately 24 inches high off the ground with a railing, also stairs, and it would not be covered or enclosed, possibly a retractable awning would be in the future. We asked about lighting; none that would intrude on neighbors. Waterfront lots, or those lots fronting the lakes or ponds with the front being the lake side, were established with the adoption of the 1961 Town Ordinance; at this time decks were not defined in the ordinance. In 1988, the ordinance changed lakeshore lots to waterfront lots and were defined as a lot which adjoins a body of water, not just Lake Ontario, unless again defining the front lot line as a lot line which adjoins a body of water. The Town's ordinance changes in 1988 also recognized decks as accessory structures and thus, accessory structures, including decks, were permitted in rear yards only. The staff did research parcels in the immediate area and variances have been granted within that immediate area; so, it is not uncommon.

WHEREAS, New York State Town Law Section 267-b requires the Zoning Board to consider the benefit to the applicant weighed against the detriment to the health, safety and welfare of the neighborhood or community and making this determination on the area variance requested the Zoning Board also must consider five criteria:

WHEREAS, these criteria as they apply in this case are discussed as follows:

1. An undesirable change will not be produced in the character of neighborhood nor be a detriment to nearby properties by granting these area variances. The proposed deck and hot tub are very common requests and are within the character of the neighborhood in many waterfront homes.
2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue other than an area variance. The structures proposed require variances. There is really no alternative, as this is considered a

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waterfront parcel and the deck and hot tub would be located in what is considered the front yard.

3. The requested variance is not substantial in the context of this application.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The site as is, will not create any adverse effects to the area.
5. The alleged difficulty was self-created, which consideration is relevant to the decision of the Board but shall not necessarily preclude the granting of this variance.

After considering the entire dynamics of this application, including the location, the zoning, the residential adjoiners and the general development pattern of this area, I move to approve as submitted for Items A and B with the following conditions:

1. That this approval is for the life of the deck and hot tub.
2. That the required permit for the driveway be obtained prior to any permits for this application or any other permits requested by the applicant.
3. This should not be covered, except possibly by a retractable awning.
4. Any lights on the deck or off the house should be contained to the property; no spillage to the neighbors.

Seconded by Ms. Christodaro and duly put to a vote, which resulted as follows:

**Ms. Betters
Mr. Jensen
Mr. Murphy**

**Yes
Yes
Yes**

**Ms. Christodaro
Mr. Meilutis
Mr. Riley**

**Yes
Yes
Absent**

**Motion Carried
Application Approved
With Conditions**

BOARD OF ZONING APPEALS MINUTES
SEPTEMBER 7, 2010

4. **Applicant:** James W. & Margie M. Brumfield
 Location: 2 Jonquil Lane
 Mon. Co. Tax No.: 033.04-3-1
 Zoning District: R1-E (Single-Family Residential)
 Request: a) An area variance for an existing 6.0 ft. high, closed-
 construction fence (approximately 115 lin. ft.) located in a front
 or corner yard, where fences located in a front or corner yard
 shall be of open construction and shall not exceed 4.0 ft. in
 height. Sec. 211-46 L & Sec. 211-47 A (1)
 b) An area variance for an existing deck (approximately 360.0
 sq. ft.) to be located in a (west) side yard, where accessory
 structures, including decks, are permitted in rear yards only.
 Sec. 211-11 E (3)

Mr. Jensen offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 2 Jonquil Lane, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (See § 617.5(c)(10) of the SEQRA Regulations).
2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, no further action relative to this proposal is required by SEQRA.

Seconded by Mr. Murphy and duly put to a vote, which resulted as follows:

Ms. Betters	Yes	Ms. Christodaro	Yes
Mr. Jensen	Yes	Mr. Meilutis	Yes
Mr. Murphy	Yes	Mr. Riley	Absent

Motion Carried

BOARD OF ZONING APPEALS MINUTES
SEPTEMBER 7, 2010

Mr. Jensen then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of James and Margie Brumfield, 2 Jonquil Lane, Margie Brumfield appeared before the Board of Zoning Appeals this evening requesting an area variance for an existing 6.0 ft. high, closed-construction fence (approximately 115 lin. ft.) located in a front or corner yard, where fences located in a front or corner yard shall be of open construction and shall not exceed 4.0 ft. in height; and an area variance for an existing deck (approximately 360.0 sq. ft.) to be located in a (west) side yard, where accessory structures, including decks, are permitted in rear yards only.

WHEREAS, the applicant testified that they have lived in the residence since September of 2009 and once acquiring the structure, let me give you a little background of 2 Jonquil Lane. It is a corner lot and the driveway of the residence goes on Jonquil Lane while the other portion of the property is on Flynn Road. Three major projects were decided amongst the applicant to complete once purchasing the home. The homeowner went to the Town, received a permit, and the Town assisted the applicant with the placement of a shed. The applicant also got a permit to put up a fence. Along with that, the next project was going to be a deck. Regarding the fence, the reason the applicant is here is because the location of where the home is and the setback of the residence at #10 made it so that it was in the front yard and a variance had to be granted. 2. The second would be the deck. The reason the applicant put the deck on the side yard, where a variance needed to be taken, was if she put it on the back of the home it would not have fit and she would have had to do major construction to make it fit on the property; that is why it was put on the side of the house. The other reason she is here this evening looking for variances is that she is looking for privacy, being a corner lot and no trees on the property, she was looking for some privacy. Also, she has grandchildren and she also being a corner lot with a lot of traffic on the street on Flynn Road, she was looking for safety of her grandchildren. We did ask the applicant if it would be a financial hardship for her to remove both the fence and the deck and she stated yes and I guess she has all the permits necessary. Also note that there are no sight distance issues with regard to the neighbor to the west and the placement of the fence.

WHEREAS, the Board of Zoning Appeals shall consider the benefit to the applicant weighed against the detriment to the health, safety and welfare of the neighborhood or community using the following criteria: An undesirable change will not be produced in the character of the neighborhood nor will it be detrimental to nearby properties should this variance be granted. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue and the requested area variance is not substantial. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. And, the alleged difficulty was self-created, which consideration is relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of this variance.

WHEREAS, having reviewed all the testimony and evidence as just summarized in the findings of fact; and

Having considered the statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this section; and

Having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community, and that the benefit to the applicant is substantial; and

Having found that this is a Type II action pursuant to SEQRA, requiring no further action by this Board,

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THEREFORE, I move to approve this application with the following conditions:

1. That this approval for the life of the fence and the deck.
2. And the applicants will still need to obtain a permit for the deck along with an inspection from the Building Department if they have not already done so.

Seconded by Mr. Murphy and duly put to a vote, which resulted as follows:

**Ms. Betters
Mr. Jensen
Mr. Murphy**

**Yes
Yes
Yes**

**Ms. Christodaro
Mr. Meilutis
Mr. Riley**

**Yes
Yes
Absent**

**Motion Carried
Application Approved
With Conditions**

BOARD OF ZONING APPEALS MINUTES
SEPTEMBER 7, 2010

- 5. Applicant:** Donald W. & Judith Y. Benham
Location: 82 Old Country Road
Mon. Co. Tax No.: 045.01-15-2
Zoning District: R1-E (Single-Family Residential)
Request: An area variance for an existing shed (11.8 ft. x 12.1 ft.; 140.1 sq. ft.) to have a (south) side setback of 1.6 ft., instead of the 6.0 ft. minimum required. Sec. 211-11 E (1), Table I

Mr. Murphy offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 82 Old Country Road, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (See § 617.5(c)(10) & (12) of the SEQRA Regulations).
2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, no further action relative to this proposal is required by SEQRA.

Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:

Ms. Betters	Yes	Ms. Christodaro	Yes
Mr. Jensen	Yes	Mr. Meilutis	Yes
Mr. Murphy	Yes	Mr. Riley	Absent

Motion Carried

Mr. Murphy then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of Donald and Judith Benham, 82 Old Country Road, Don Benham appeared before the Board of Zoning Appeals this evening requesting an area variance for an existing shed (11.8 ft. x 12.1 ft.; 140.1 sq. ft.) to have a (south) side setback of 1.6 ft., instead of the 6.0 ft. minimum required.

WHEREAS, Mr. Benham stated that he has lived at the residence for nine years and the shed was constructed right after he moved into the home nine years ago. He stated

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that it came to his attention when a new home was going to be built in an empty lot next to him that the shed was out of compliance and he came to the Zoning Board to get the proper permits. The shed is constructed of pressure-treated lumber and the shed sits on wood four-by-fours or wood planks, and he has landscaping around the shed. The applicant did state that it would be a financial hardship for him to move the shed into compliance due to the landscaping and the age of the shed; in moving it, he does not feel it will make the move.

WHEREAS, after considering the five points when determining an area variance, it is my opinion that an undesirable change will not be produced in the character of the neighborhood nor will it be a detriment to nearby properties, should this variance be granted. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue and the requested area variance, I feel, is not substantial. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. And, the alleged difficulty, although was self-created, which consideration is relevant to the decision of the Board but shall not necessarily preclude the granting of the area variance.

WHEREAS, having reviewed all the testimony and evidence as just summarized in the findings of fact; and

Having considered the statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this section; and

Having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community, and that the benefit to the applicant is substantial; and

Having found that this is a Type II action pursuant to SEQRA, requiring no further action by this Board,

THEREFORE, I move to approve this application with the following conditions:

1. That this approval is for the life of the shed.
2. And also the applicant must meet all the necessary regulations of the Building Department for the permit.

Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:

Ms. Betters
Mr. Jensen
Mr. Murphy

Yes
Yes
Yes

Ms. Christodaro
Mr. Meilutis
Mr. Riley

Yes
Yes
Absent

Motion Carried
Application Approved
With Conditions

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6. **Applicant:** Robert Pontarelli
 Location: 375 Bonesteel Street
 Mon. Co. Tax No.: 075.14-3-38
 Zoning District: R1-8 (Single-Family Residential)
 Request: A special use permit to convert an existing one-family dwelling
 into a two-family dwelling. Sec. 211-11 C(2)(a)

On a motion by Mr. Meilutis and seconded by Ms. Christodaro, it was resolved to continue the public hearing on this application until the meeting of September 21, 2010 in order to give the applicant time to review some of the discussion topics and other options.

**Ms. Betters
Mr. Jensen
Mr. Murphy**

**Yes
Yes
Yes**

**Ms. Christodaro
Mr. Meilutis
Mr. Riley**

**Yes
Yes
Absent**

**Motion Carried
Application Continued
Until Meeting of
September 21, 2010**

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- 7. Applicant:** Charles S. Arena, Sr.
Location: 2450 Edgemere Drive
Mon. Co. Tax No.: 026.15-1-57
Zoning District: R1-E (Single-Family Residential)
Request:
- a) An area variance for an existing cabana (8.3 ft. x 30.7 ft.; 252.3 sq. ft.) to be located in a (west) side waterfront yard, where accessory structures, including cabanas, are permitted in rear yards only. Sec. 211-11 E (3)
 - b) An area variance for an existing cabana (8.3 ft. x 30.7 ft.; 252.3 sq. ft.) to have a (west) side setback of 1.4 ft., instead of the 6.8 ft. minimum required. Sec. 211-11 E (1), Table I
 - c) An area variance for existing lot coverage of 25.7%, instead of the 25% maximum permitted. Sec. 211-11 D (2), Table I

Mr. Meilutis offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 2450 Edgemere Drive, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (See § 617.5(c)(10) & (12) of the SEQRA Regulations).
2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, no further action relative to this proposal is required by SEQRA.

Seconded by Mr. Murphy and duly put to a vote, which resulted as follows:

Ms. Betters	Yes	Ms. Christodaro	Yes
Mr. Jensen	Yes	Mr. Meilutis	Yes
Mr. Murphy	Yes	Mr. Riley	Absent

Motion Carried

BOARD OF ZONING APPEALS MINUTES
SEPTEMBER 7, 2010

Mr. Meilutis then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of Charles S. Arena, Sr., 2450 Edgemere Drive, Mr. Arena appeared before the Board of Zoning Appeals this evening requesting an area variance for an existing cabana (8.3 ft. x 30.7 ft.; 252.3 sq. ft.) to be located in a (west) side waterfront yard, where accessory structures, including cabanas, are permitted in rear yards only; an area variance for an existing cabana (8.3 ft. x 30.7 ft.; 252.3 sq. ft.) to have a (west) side setback of 1.4 ft., instead of the 6.8 ft. minimum required; and an area variance for existing lot coverage of 25.7%, instead of the 25% maximum permitted.

WHEREAS, the applicant came before the Board this evening telling us that there were two sheds that were on the property built presumably sometime in the '50s, but not known for certain. The applicant and his family have lived at the parcel for more than 40 years, perhaps maybe more than 50 years that this property has been into ownership. The applicants now desire to sell the property at 2450 Edgemere. In the process of doing so, the cabana does not meet the current code, as it is over 200 sq. ft.; in fact, it is 252.3 sq. ft. The applicant testified that the cabana—the sheds—that were there were used for general storage and at some point the two sheds were combined into one shed, over 200 sq. ft., which makes it a permanent structure versus under 200 or less as a shed. The applicant testified that he wants to get this resolved. I am only referencing the shed to make it clear that we had two sheds that were combined into something new called a cabana. We are dealing with a cabana now that does not meet code and the setbacks and the overall spirit and intent of the variances that were granted back in 1994 for two separate sheds, he's combined and made into one, which is now a cabana. The applicant has testified that as the cabana currently exists, he was requesting a variance for 25.7% instead of 25% maximum permitted. The applicant testified that over time, in addition to combining what were two sheds into a new building now called a cabana, the structures have been well maintained and in good shape, has water in it, has electric in it. It is used primarily as a seasonal building in the summer and it has storage placed in it at the conclusion of summer throughout the winter. Through much discussion, the applicant has offered to reduce the size of the cabana, down to not more than 200 sq. ft., which changes the cabana now to an accessory structure.

WHEREAS, the Board has to consider the five statutory factors in making the determination when determining an area variance:

1. An undesirable change will not be produced in the character of the neighborhood nor will it be detriment to nearby properties if this accessory structure is reduced to 200 sq. ft. or less in size. There are other accessory structures along the lakefront that are 200 sq. ft. or less in size.
2. The benefit to the applicant cannot be achieved by some other method feasible for the applicant to pursue, other than through a variance. This Board is under the opinion that at some point in time, the previous variances that were granted in 1994 disappeared when the structure was changed and combined from two accessory structures into one accessory structure, known as a cabana.
3. The requested area variance is not substantial if the applicant reduces the size down to not more than 200 sq. ft. in that we do have other buildings along the lakefront on Edgemere Drive that are in the 200 sq. ft. or less size.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district in that there is some commonality with other properties along the lakefront.
5. The alleged difficulty was self-created, which is relevant to the decision of the Board but does not necessarily preclude the granting of this area variance. This is a very

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unusual case in that two accessory structure buildings were transformed into one larger one, which, when you see the size in our definition of a shed within the Town and the applicant's willingness to reduce that to 200 sq. ft. or less, will get it back down to the shed size.

WHEREAS, having reviewed all the testimony and evidence as just summarized in the findings of fact; and

Having considered the statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this section; and

Having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community, and that the benefit to the applicant is substantial; and

Having found that this is a Type II action pursuant to SEQRA, requiring no further action by this Board,

THEREFORE, I am going move to approve this application with the following conditions:

1. That the existing accessory structure that is now on the site, identified as a cabana in our agenda, be reduced to the size of not more than 200 sq. ft.
2. That the area variance for the existing lot coverage of 25.7 % requested instead of 25% maximum permitted, instead, the maximum permitted coverage will be 25.11%.
3. That the applicant will have to conform with all building codes as it relates to the accessory structure once it's modified to 200 sq. ft. or less.
4. That the applicant obtains a building permit for the structure, that he complies with all the fire and building codes, including the one-hour fire separation on the west lot line per section R302.1 of the residential building code, that he obtain an inspection of all electrical work that has been installed, and if plumbing inspection is required too, then that would also be included as part of the inspection process (it might not be required), and obtain all building inspections to include a certificate of compliance on the property.
5. The side setback will be granted at 1.4 ft. instead of the 6.8 ft. required under code.
6. This is for the life of the accessory structure. In the event this structure goes into disrepair or is structurally unsound or unsafe, the variance goes away and the applicant cannot take and add on to the structure without obtaining the necessary permits or variances.
7. The modifications that need to be done to the cabana, reducing the size to not more than 200 sq. ft., needs to be completed by October 7, 2010.

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Seconded by Mr. Murphy and duly put to a vote, which resulted as follows:

**Ms. Betters
Mr. Jensen
Mr. Murphy**

**Yes
Yes
Yes**

**Ms. Christodaro
Mr. Meilutis
Mr. Riley**

**Yes
Yes
Absent**

**Motion Carried
Application Approved
With Modification And
With Conditions**

BOARD OF ZONING APPEALS MINUTES
SEPTEMBER 7, 2010

- 8. Applicant:** Charles S. Arena, Sr.
Location: Edgemere Drive
Mon. Co. Tax No.: 026.15-1-75
Zoning District: R1-E (Single-Family Residential)
Request: a) An area variance to allow a proposed accessory structure (freestanding garage; 30.0 ft. x 40.0 ft.; 1200.0 sq. ft.) to be located on a lot with no principal structure. Sec. 211-5 Structure, Accessory
b) An area variance for a proposed freestanding garage (30.0 ft. x 40.0 ft.; 1200.0 sq. ft.), resulting in a total gross floor area of 1200 sq. ft. for all proposed accessory structures, where 800 sq. ft. is the maximum gross floor area permitted for lots less than 16,000 sq. ft. in area. Sec. 211-11 E (1), Table I

Mr. Meilutis offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at Edgemere Drive, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (See § 617.5(c)(10) of the SEQRA Regulations).
2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, no further action relative to this proposal is required by SEQRA.

Seconded by Ms. Christodaro and duly put to a vote, which resulted as follows:

Ms. Betters	Yes	Ms. Christodaro	Yes
Mr. Jensen	Yes	Mr. Meilutis	Yes
Mr. Murphy	Yes	Mr. Riley	Absent

Motion Carried

BOARD OF ZONING APPEALS MINUTES
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Mr. Meilutis then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of Charles S. Arena, Sr., Edgemere Drive, appeared before the Board of Zoning Appeals this evening requesting an area variance to allow a proposed accessory structure (freestanding garage; 30.0 ft. x 40.0 ft.; 1200.0 sq. ft.) to be located on a lot with no principal structure and an area variance for a proposed freestanding garage (30.0 ft. x 40.0 ft.; 1200.0 sq. ft.), resulting in a total gross floor area of 1200 sq. ft. for all proposed accessory structures, where 800 sq. ft. is the maximum gross floor area permitted for lots less than 16,000 sq. ft. in area.

WHEREAS, during the hearing the applicant has withdrawn his request for Item "B," and the Board is now confronted with only Item "A," as addressed on the application for this structure. The applicant has testified that he has owned and had in his family the property at 2450 Edgemere Drive for a number of years. It is the applicant's desire to now sell that property, but he has had a hardship with trying to market the property without a garage on the residence on the property located at 2450 Edgemere Drive. The applicant has testified that he owns the land on the south side of Edgemere Drive, identified only as Edgemere Drive on our agenda, Item #8, and he is willing to take a portion of that property he owns and sell it to the same buyer that will be buying the house at 2450, plus meeting the requirement of the buyer to have a garage located accessible and usable to the property at 2450. During the course of the testimony that was offered, the applicant has agreed to reduce the square footage from the 1200 sq. ft. requested down to 800 sq. ft., which under the ordinance he's permitted providing that this Board grants an area variance to allow a proposed accessory structure where no principal structure exists. The Board heard from staff that the property at 3180 Edgemere Drive, we have a 12 ft. x 12 ft. shed that was approved by this Board, and at 740 Edgemere Drive, we have a 14 ft. x 28 ft. garage that was approved through a variance. So, in dealing with the area variances required, the Board is confronted with dealing with five points:

1. An undesirable change will not be produced in the character of the neighborhood nor will it be detriment to nearby properties. There is precedence set that we do have other sheds and garages along Edgemere Drive and this would only be an additional property that would permit garages that would be usable to the principal structure which is located across the street. Further, at one time the County did permit the combination of lots from one side of the road to the other into a common tax parcel. In recent years however, that process has been discontinued and is not sanctioned by the County any longer, so there are other cases where single parcels with ownership on both sides of the road exists and garages on the opposite side, aside from the fact that there was a variance to two different tax account parcels.
2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue other than by an area variance. The lot at 2450, which is driving the development of the lot on Edgemere Drive for the garage, is already maxed to capacity on the area variance, percent of area coverage, and the only way that the applicant can get a garage on the site and still maintain the parcel at 2450 in the condition it is, is through a variance.
3. The area variance is not substantial. In fact, the applicant has reduced it to 800 sq. ft. from his requested 1200 sq. ft. and this Board has, as previously noted, granted variances for buildings on the opposite side of the road of the principal structure.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The 800 sq. ft. garage is permitted as long as this Board grants it without a principal structure. And, the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, this as testified.

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5. The alleged difficulty was self-created, which consideration is relevant to the decision of the Board but shall not necessarily preclude the granting of the area variance. In this particular case, you have the lot across the street at 2450. Had it not been developed to the magnitude that it was, it may have been possible to further get a garage on the parcel without requiring additional variances to do it across the street. In this particular case, the residence at 2450 was fully developed and the only place to really put a garage for this parcel would be across the street, directly across the street from the property.

WHEREAS, having reviewed all the testimony and evidence as just summarized in the findings of fact; and

Having considered the statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this section; and

Having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community, and that the benefit to the applicant is substantial; and

Having found that this is a Type II action pursuant to SEQRA, requiring no further action by this Board,

THEREFORE, I am going move to approve this application with the following conditions:

1. That the garage not be any larger than 800 sq. ft.
2. That the garage placement on the site meets all Town setbacks, codes, and regulations.
3. And that this parcel identified only as 026.15-1-75, being on the south side of Edgemere Drive, be tied to the same owner as 2450 Edgemere Drive through a Memorandum of Development Restrictions, for the duration of this garage to stand on this parcel with no principal structure or until such time as a home is to be placed on the parcel at 026.15-1-75, or unless relief is sought from the Board of Zoning Appeals.
4. That there is to be no heat and no water connections to the garage; electric service will be permitted.

Seconded by Ms. Christodaro and duly put to a vote, which resulted as follows:

**Ms. Betters
Mr. Jensen
Mr. Murphy**

**Yes
Yes
Yes**

**Ms. Christodaro
Mr. Meilutis
Mr. Riley**

**Yes
Yes
Absent**

**Motion Carried
Application Approved
With Conditions**

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- 9. Applicant:** Church of Christ, Inc.
Location: 15-25 Lawson Road & 3950 Dewey Avenue
Mon. Co. Tax No.: 060.07-3-37; 060.07-3-38 & 060.07-3-31
Zoning District: R1-8 (Single-Family Residential)
Request:
- a) An area variance for a portion of a proposed west side drive aisle, (approximately 180.0 lin. ft.) to be located 2.0 ft. from a residential district, instead of the 20.0 ft. minimum required. Sec. 211-17 B (4), Table III
 - b) An area variance for a portion of an existing east side drive aisle (approximately 155.0 lin. ft.) to be located 4.0 ft. from a residential district, instead of the 20.0 ft. minimum required. Sec. 211-17 B (4), Table III
 - c) An area variance for a portion of a proposed parking area (approximately 200.0 lin. ft.) to be located 5.0 ft. from a residential district, instead of the 20.0 ft. minimum required. Sec. 211-17 B (4), Table III
 - d) An area variance for a portion of a proposed parking area to be located on an adjoining parcel, where all parking spaces shall be located on the same lot or business center as the use for which they are provided. Sec. 211-42

Ms. Christodaro offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 15-25 Lawson Road & 3950 Dewey Avenue, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes an Unlisted action under SEQRA.
2. The Board of Zoning Appeals has considered the Proposal at a public meeting (the "Meeting") in the Greece Town Hall, 1 Vince Tofany Boulevard, at which time all persons and organizations in interest were heard.
3. Documentary, testimonial, and other evidence were presented at the Meeting relative to the Proposal for the Board of Zoning Appeals' consideration.
4. The Board of Zoning Appeals carefully has considered an Environmental Assessment Form and supplementary information prepared by the Applicant and the Applicant's representatives, including but not limited to supplemental maps, drawings, descriptions, analyses, reports, and reviews (collectively, the "Environmental Analysis").
5. The Board of Zoning Appeals carefully has considered additional information and comments that resulted from telephone conversations, meetings, or written correspondence from or with the Applicant and the Applicant's representatives.

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6. The Board of Zoning Appeals carefully has considered information, recommendations, and comments that resulted from telephone conversations, meetings, or written correspondence from or with various involved and interested agencies, including but not limited to the Monroe County Department of Planning and Development, the Town of Greece Environmental Board, and the Town's own staff.
7. The Board of Zoning Appeals carefully has considered information, recommendations, and comments that resulted from telephone conversations, meetings, or written correspondence from or with nearby property owners, and all other comments submitted to the Board of Zoning Appeals as of this date.
8. The Environmental Analysis examined the relevant issues associated with the Proposal.
9. The Board of Zoning Appeals has met the procedural and substantive requirements of SEQRA.
10. The Board of Zoning Appeals carefully has considered each and every criterion for determining the potential significance of the Proposal upon the environment, as set forth in SEQRA.
11. The Board of Zoning Appeals carefully has considered (that is, has taken the required "hard look" at) the Proposal and the relevant environmental impacts, facts, and conclusions disclosed in the Environmental Analysis.
12. The Board of Zoning Appeals concurs with the information and conclusions contained in the Environmental Analysis.
13. The Board of Zoning Appeals has made a careful, independent review of the Proposal and the Board of Zoning Appeals' determination is rational and supported by substantial evidence, as set forth herein.
14. To the maximum extent practicable, potential adverse environmental effects revealed in the environmental review process will be minimized or avoided by the incorporation of mitigation measures that were identified as practicable.

NOW, THEREFORE, be it

RESOLVED that, pursuant to SEQRA, based on the aforementioned information, documentation, testimony, and findings, and after examining the relevant issues, the Board of Zoning Appeals' own initial concerns, and all relevant issues raised and recommendations offered by involved and interested agencies and the Town's own staff, the Board of Zoning Appeals determines that the Proposal will not have a significant adverse impact on the environment, which constitutes a negative declaration.

Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:

Ms. Betters
Mr. Jensen
Mr. Murphy

Yes
Yes
Yes

Ms. Christodaro
Mr. Meilutis
Mr. Riley

Yes
Yes
Absent

Motion Carried

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Ms. Christodaro then offered the following resolution and moved its adoption:

WHEREAS, regarding the application of Church of Christ, Inc., 15-25 Lawson Road & 3950 Dewey Avenue, Gary Garofalo, on behalf of the applicant, appeared before the Board of Zoning Appeals this evening requesting an area variance for a portion of a proposed west side drive aisle, (approximately 180.0 lin. ft.) to be located 2.0 ft. from a residential district, instead of the 20.0 ft. minimum required; an area variance for a portion of an existing east side drive aisle (approximately 155.0 lin. ft.) to be located 4.0 ft. from a residential district, instead of the 20.0 ft. minimum required; an area variance for a portion of a proposed parking area (approximately 200.0 lin. ft.) to be located 5.0 ft. from a residential district, instead of the 20.0 ft. minimum required; and an area variance for a portion of a proposed parking area to be located on an adjoining parcel, where all parking spaces shall be located on the same lot or business center as the use for which they are provided.

WHEREAS, the applicant's representative testified that the church is in the process of adding an addition onto it. The layout of this property had been pretty much the same since its existence in 1955 and this is cleaning up some of the variances that were probably needed on the property earlier. With regard to the west side drive aisle, that one will be extended a little bit out toward the residential district. With regard to the east side drive aisle, that one will be extended toward the applicant's own principal dwellings. With regard to the 5 ft. residential district setback, that is for a proposed parking area in the event that more space is needed on the property for fire equipment to make turnarounds or to adequately serve the property. And with regard to Item "D," these are parking spaces that are utilized on a dentist's property that is next door, which has been happening for quite awhile now and there is a license agreement with that property owner to use those spaces. It should be noted that we received a recommendation from the Planning Board to approve these variances as well.

WHEREAS, having reviewed all the testimony and evidence as just summarized in the findings of fact; and

Having considered the statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this section; and

Having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community, and that the benefit to the applicant is substantial; and

Having found that this is a Type II action pursuant to SEQRA, requiring no further action by this Board,

THEREFORE, I move to approve this application with the following condition:

1. That this is subjected to a final approval by the Planning Board.

Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:

Ms. Betters
Mr. Jensen
Mr. Murphy

Yes
Yes
Yes

Ms. Christodaro
Mr. Meilutis
Mr. Riley

Yes
Yes
Absent

Motion Carried
Application Approved
With Condition

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- 10. Applicant:** PetSmart
Location: 3042 West Ridge Road
Mon. Co. Tax No.: 074.01-1-4.1
Zoning District: BG (General Business)
Request: An area variance for a proposed second building-mounted sign (1.2 ft. x 10.0 ft.; 12.5 sq. ft.) with a sign area of 12.5 sq. ft., instead of the one 135.0 sq. ft. building-mounted sign permitted. Sec. 211-52 B (2)(a)[1] & 211-52 B(2)(c)[1], Table VII

Mr. Murphy offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 3042 West Ridge Road, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes an Unlisted action under SEQRA.
2. The Board of Zoning Appeals has considered the Proposal at a public meeting (the "Meeting") in the Greece Town Hall, 1 Vince Tofany Boulevard, at which time all persons and organizations in interest were heard.
3. Documentary, testimonial, and other evidence were presented at the Meeting relative to the Proposal for the Board of Zoning Appeals' consideration.
4. The Board of Zoning Appeals carefully has considered an Environmental Assessment Form and supplementary information prepared by the Applicant and the Applicant's representatives, including but not limited to supplemental maps, drawings, descriptions, analyses, reports, and reviews (collectively, the "Environmental Analysis").
5. The Board of Zoning Appeals carefully has considered additional information and comments that resulted from telephone conversations, meetings, or written correspondence from or with the Applicant and the Applicant's representatives.
6. The Board of Zoning Appeals carefully has considered information, recommendations, and comments that resulted from telephone conversations, meetings, or written correspondence from or with various involved and interested agencies, including but not limited to the Monroe County Department of Planning and Development, the Town of Greece Environmental Board, and the Town's own staff.
7. The Board of Zoning Appeals carefully has considered information, recommendations, and comments that resulted from telephone conversations, meetings, or written correspondence from or with nearby property owners, and all other comments submitted to the Board of Zoning Appeals as of this date.
8. The Environmental Analysis examined the relevant issues associated with the Proposal.

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9. The Board of Zoning Appeals has met the procedural and substantive requirements of SEQRA.
10. The Board of Zoning Appeals carefully has considered each and every criterion for determining the potential significance of the Proposal upon the environment, as set forth in SEQRA.
11. The Board of Zoning Appeals carefully has considered (that is, has taken the required "hard look" at) the Proposal and the relevant environmental impacts, facts, and conclusions disclosed in the Environmental Analysis.
12. The Board of Zoning Appeals concurs with the information and conclusions contained in the Environmental Analysis.
13. The Board of Zoning Appeals has made a careful, independent review of the Proposal and the Board of Zoning Appeals' determination is rational and supported by substantial evidence, as set forth herein.
14. To the maximum extent practicable, potential adverse environmental effects revealed in the environmental review process will be minimized or avoided by the incorporation of mitigation measures that were identified as practicable.

NOW, THEREFORE, be it

RESOLVED that, pursuant to SEQRA, based on the aforementioned information, documentation, testimony, and findings, and after examining the relevant issues, the Board of Zoning Appeals' own initial concerns, and all relevant issues raised and recommendations offered by involved and interested agencies and the Town's own staff, the Board of Zoning Appeals determines that the Proposal will not have a significant adverse impact on the environment, which constitutes a negative declaration.

Seconded by Ms. Betters and duly put to a vote, which resulted as follows:

Ms. Betters
Mr. Jensen
Mr. Murphy

Yes
Yes
Yes

Ms. Christodaro
Mr. Meilutis
Mr. Riley

Yes
Yes
Absent

Motion Carried

Mr. Murphy then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of PetSmart, 3042 West Ridge Road, Mike Mammano, representing PetSmart, appeared before the Board of Zoning Appeals this evening requesting an area variance for an existing second building-mounted sign (1.2 ft. x 10.0 ft.; 12.5 sq. ft.) with a sign area of 12.5 sq. ft., instead of the one 135.0 sq. ft. building-mounted sign permitted.

WHEREAS, he stated that the sign has presently been up since, he could figure it 2004, and the reason, the activity, the sign shows grooming and the activity has been going on since that time of 2004. There are two signs at the front of the building, which face north. The sign is backlit and the sign is lit during business hours.

It is my opinion that an undesirable change will not be produced in the character of the neighborhood, nor will granting this variance be a detriment to the nearby properties

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should this variance be granted. The building itself stands a distance away from Ridge Road; it sits further back than buildings in the area. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue and the requested area variance, I feel, is not substantial. The proposed signage, I feel, is appropriate for the site and use of the sign area is such that the variance will have no visible impact. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Although I feel the alleged difficulty was self-created, which consideration is relevant to the decisions of the Board, this shall not necessarily preclude the granting of this variance.

Having reviewed all the testimony and evidence as just summarized in the findings of fact, and having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community, and that the benefit to the applicant is substantial;

THEREFORE, I move to approve this application with the condition that it is for the life of the sign.

Seconded by Ms. Betters and duly put to a vote, which resulted as follows:

**Ms. Betters
Mr. Jensen
Mr. Murphy**

**Yes
Yes
Yes**

**Ms. Christodaro
Mr. Meilutis
Mr. Riley**

**Yes
Yes
Absent**

**Motion Carried
Application Approved
With Condition**

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ADJOURNMENT

The meeting was adjourned at 10:45 p.m.

The Board of Zoning Appeals of the Town of Greece, in the County of Monroe and State of New York, rendered the above decisions.

Dated: _____
Albert F. Meilutis, Chairman

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